

HOUSE BILL 521  
By Harwell

AN ACT to amend Tennessee Code Annotated, Title 67, relative to taxation of leased personal property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-5-502(c), is amended by deleting the subsection in its entirety and by substituting instead the following:

(c) Leased personal property used by a public utility company shall be assessed to the public utility company unless such property is the subject of a lawful agreement between the lessee and a local government for payments in lieu of taxes.

SECTION 2. Tennessee Code Annotated, Section 67-5-901(b), is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) "Inventories of merchandise held by merchants and businesses for sale and exchange" includes tangible personal property held for lease or rental, but does not include such property in the possession of a lessee.

SECTION 3. Tennessee Code Annotated, Section 67-5-904, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The lessor of leased tangible personal property that is located in a taxing jurisdiction shall be required to file with the assessor of property a separate schedule

listing and describing each item of leased property in the taxing jurisdiction; its make and model number, if any; the year of its manufacture; the name of the party to whom leased; the address where such leased property is located; the advertised retail price and initial costs of the leased property; the rental charged for its use; and its actual value as of the assessment date; and such other information as may be required by the assessor.

(b) Leased property shall include equipment, machinery, and all tangible personal property used in the conduct of, or as a part of, a lessee's business including, but not limited to, the following:

- (1) Equipment that is leased only, not sold;
- (2) Equipment that is leased at nominal rent or loaned under certain circumstances;
- (3) Equipment that is leased and not permitted to be sold;
- (4) Leased coin-operated machines and devices;
- (5) Equipment that is placed on location;
- (6) Vehicles, automobiles, trucks;
- (7) Furniture; and
- (8) Electronic equipment.

(c) Any tangible personal property which is not reported as provided herein, and which is discovered on the premises of a taxpayer, shall be prima facie deemed the property of such taxpayer, and shall be so regarded and assessed by the assessor. However, such presumption may be overcome by the taxpayer supplying to the assessor or to the board of equalization a full description of the property, the name and address of the lessor of the property, and the amount of monthly rental paid on each item.

(d) Regardless of any contract between the lessor and lessee as to who shall pay the taxes, it shall be the duty of the lessor of the leased property to report to the assessor any leased property. The leased personal property shall be assessed to the lessor as the true owner of the property.

SECTION 4. Tennessee Code Annotated, Section 67-5-2003(a), is amended by deleting the language "However, leased personal property assessed to a lessee shall not be distrained and sold pursuant to this section."

SECTION 5. Tennessee Code Annotated, Section 67-5-2102(a), is amended by deleting the language "However, there shall be no lien against leased personal property assessed to a lessee."

SECTION 6. This act shall take effect January 1, 2004, the public welfare requiring it.